

UNITED STATES DISTRICT COURT  
DISTRICT OF MAINE

DAVID GORDON FLEMING,	)	
	)	
Plaintiff	)	
	)	
v.	)	Civil No. 99-0018-B
	)	
MARTIN MAGNUSSON, et al.,	)	
	)	
Defendants	)	

***RECOMMENDED DECISION***

Plaintiff is a prisoner housed at the Maine Correctional Institution in Warren, Maine. He has filed an action pursuant to 42 U.S.C. section 1983, seeking redress for various housing classification decisions and assaults by both inmates and officers dating from 1993. Plaintiff seeks leave to proceed *in forma pauperis*. Inasmuch as Plaintiff does not allege “imminent danger of serious physical injury,” and he has not paid the filing fee for this action in full, I hereby recommend that Plaintiff’s Complaint be DISMISSED for the reason that Plaintiff has had at least three prior such actions dismissed as frivolous within the meaning of 28 U.S.C. section 1915.<sup>1</sup> 28 U.S.C. § 1915(g). The dismissal should be entered without prejudice to Plaintiff’s

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<sup>1</sup> Docket Numbers 93-0249-B, 94-0110-B, 95-0017-B, 96-0070-B. See also, Docket Numbers 96-0136-B, 96-0137-B, dismissed for the same reason on June 7, 1996.

ability to bring the action in a paid complaint. *Fleming v. Maine Dept. of Corr.*, No. 96-1740 (1<sup>st</sup> Cir. entered March 7, 1997).

### NOTICE

A party may file objections to those specified portions of a magistrate judge's report or proposed findings or recommended decisions entered pursuant to 28 U.S.C. § 636(b)(1)(B) (1988) for which *de novo* review by the district court is sought, together with a supporting memorandum, within ten (10) days of being served with a copy thereof. A responsive memorandum shall be filed within ten (10) days after the filing of the objection.

Failure to file a timely objection shall constitute a waiver of the right to *de novo* review by the district court and to appeal the district court's order.

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Eugene W. Beaulieu  
United States Magistrate Judge

Dated on March 3, 2000.